

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

**Southern Division**

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JEFF SCHMIDT,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	Civil Action No.: 8:04-cv-3774 (AW)
	)	
	)	
AMERICAN INSTITUTE OF PHYSICS,	)	
	)	
Defendant.	)	
<hr/>	)	

**DEFENDANT'S FIRST REQUEST FOR PRODUCTION  
OF DOCUMENTS FROM PLAINTIFF**

Defendant, hereby requests, pursuant to Fed. R. Civ. P. 34 and this Court's rules governing pretrial discovery, that Plaintiff produce and permit counsel for Defendant an opportunity to inspect and copy the below-described documents by producing them at or making true and correct copies thereof and forwarding them to the law offices of Jackson Lewis LLP, within thirty (30) days of service of this request.

In answering these requests, please furnish all information available to you, including information in the possession of your attorneys, or their investigators, and all persons acting in your behalf and not merely such information of your own personal knowledge. If you cannot answer the requests completely, after exercising due diligence to secure the information, so state and answer to the extent possible specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

The requests which follow are to be considered as continuing. You are requested to provide, by way of supplementary answers thereto, such additional information as you or any other person acting on your behalf may hereafter obtain which will augment or otherwise modify your current answers.

### **DEFINITIONS**

As used herein, the term “person” means natural persons, corporations, partnerships, sole proprietorships, unions, associations, federations, or any kind of entity.

The term “identify,” when used in reference to a person, means to set forth the full name, present or last known business and personal address, and present or last known business and personal telephone number.

### **INSTRUCTIONS**

In answering these requests, Plaintiff shall furnish all information available to him, including information in the possession of any present or former attorney, accountants, investigators and all persons acting on his behalf, and not merely such information as may be known of his own personal knowledge. If Plaintiff cannot answer any requests, in full, after exercising due diligence to secure the information requested, Plaintiff shall so state and answer to the extent possible, specifying the nature of his inability to answer the remainder and providing information or knowledge that he possesses concerning the unanswered portions.

### **DOCUMENTS TO BE PRODUCED**

1. Any and all documents substantiating, referring or relating to any allegation in Plaintiff’s First Amended Complaint of wrongful conduct by Defendant.
2. Any and all documents substantiating, referring or relating to any agreement(s) and/or contract(s) between Plaintiff and Defendant.

3. The contract referred to in Count I of the Plaintiff's First Amended Complaint.

4. Any and all documents relating to, summarizing or setting forth all or part of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count I of Plaintiff's First Amended Complaint.

5. Any and all documents relating to, summarizing or setting forth all or part of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count II of Plaintiff's First Amended Complaint.

6. Any and all documents relating to, summarizing or setting forth all or part of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count III of Plaintiff's First Amended Complaint.

7. Any and all documents relating to, summarizing or setting forth all or part of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count IV of Plaintiff's First Amended Complaint.

8. Any and all documents relating to, summarizing or setting forth all or part of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count V of Plaintiff's First Amended Complaint.

9. Any and all documents relating to, summarizing or setting forth all or part

of any communication, whether oral or written, between Plaintiff and Defendant, or any representative of Defendant, regarding the claims asserted in Count VI of Plaintiff's First Amended Complaint.

10. All documents relating to the terms and conditions of Plaintiff's employment with Defendant, including without limitation, employee handbooks, benefit plans, memoranda and policy statements received or obtained by Plaintiff.

11. All documents (excluding the Complaint herein) setting forth Plaintiff's version of events that form the basis of Plaintiff's claims of a) breach of contract; b) detrimental reliance; c) breach of implied covenant of good faith and fair dealing; d) a violation of 42 U.S.C. 1981; e) a violation of 42 U.S.C. 1983; and f) any other allegations of wrongful conduct by Defendant, including, by way of example only, any diary, log, or memorandum prepared by Plaintiff.

12. Any and all reports provided to Plaintiff, or anyone acting in his behalf, by any expert or experts, contacted or retained for the purpose of this litigation or received by any expert from Plaintiff.

13. All documents relating to Plaintiff's alleged damages resulting from Defendant's alleged unlawful conduct and the computation thereof.

14. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 17 of Plaintiff's First Amended Complaint that Plaintiff led an effort to request that Defendant change its hiring procedures.

15. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 24 of Plaintiff's First Amended Complaint that Defendant delivered

notice to Plaintiff on October 1, 1997 that his actions were “counterproductive.”

16. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 25 of Plaintiff's First Amended Complaint that he was continuously and harshly criticized in the period of time after October 17, 1997.

17. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 28 of Plaintiff's First Amended Complaint that he sent Mr. Brodsky a memorandum on or around November 5, 1997.

18. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 33 of Plaintiff's First Amended Complaint that all private conversations at work would be subject to monitoring by management.

19. Any and all documents substantiating, relating or referring to Plaintiff's allegations in paragraph 48 of Plaintiff's First Amended Complaint that he wished to carry over vacation time from 1999 to 2000, but was denied such request from Defendant.

20. Any and all documents substantiating, relating or referring to Plaintiff's efforts to obtain employment, other than with Defendant (including self-employment) during 2000, 2001, 2002, 2003, 2004 and 2005, including, but not limited to, resume(s), correspondence with prospective employers and employment agencies, proposals for the engagement of Plaintiff's services, referral letters, letters of recommendation, and applications for employment.

21. Any and all documents substantiating, relating or referring to any offers of employment or engagement of Plaintiff's services made to Plaintiff during 2000, 2001, 2002, 2003, 2004 and 2005.

22. Any and all written statements, including, without limitation, tape recordings, rendered by persons contacted or interviewed by or in behalf of Plaintiff in

connection with the claims asserted in the First Amended Complaint.

23. Any and all documents relating in any way to the claims asserted in the First Amended Complaint, which were received by Plaintiff from, or provided to Plaintiff by: (a) Defendant; (b) any prospective employer while Plaintiff was employed by Defendant (c) any employee or other representative of Defendant; (d) any law enforcement authority or court system, including grand jury proceedings; or, (h) any other governmental agency or forum, including the Prince George County Commission on Human Rights, the NLRB and the EEOC.

24. Plaintiff's Federal, State and local tax returns, and all attachments and W-2 forms and 1099 forms for calendar years 2000, 2001, 2002, 2003 and 2004.

25. All employment records possessed by Plaintiff relating to his employment with Defendant, including but not limited to time sheets, paystubs, performance evaluations and any appeal of any performance review brought by Plaintiff.

26. Any and all correspondence, e-mails or documents between Plaintiff and any co-worker relating to purported retaliatory and discriminatory conduct by Defendant.

27. Any and all documents that establish or show that any employee of Defendant received more favorable treatment than Plaintiff because Plaintiff made a complaint of any kind.

28. All documents not specifically requested in the foregoing Requests for Production of Documents, which Plaintiff believes will support, rebut or in any way relate to his claims in this matter.

29. Any and all documents Plaintiff intends to offer into evidence at trial.

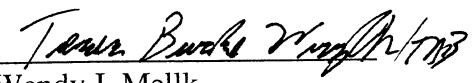
30. Any and all documents relating to Plaintiff's financial arrangement with his attorney for his representation in this action, including, but not limited to, any retainer

agreement between Plaintiff and his attorney and any other documents relating to or supporting any claim by Plaintiff that he is entitled to "attorney's fees".

Dated: March 15, 2005

Respectfully submitted,

**JACKSON LEWIS LLP**

By:   
Wendy J. Mellk  
(*pro hac vice* pending)  
Teresa Burke Wright  
(MD Federal Bar No. 08602)  
8614 Westwood Center Drive  
Suite 950  
Vienna, Virginia 22182  
Telephone: 703-821-2189  
Facsimile: 703-821-2267

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15th day of March, 2005, a copy of the foregoing *Defendant's Request for Production of Documents from Plaintiff* was sent via overnight delivery to:

Patricia Gail Butler  
Chad Ryan Murchison  
Howrey Simon Arnold and  
White LLP  
1299 Pennsylvania Ave NW  
Washington, DC 20004  
**Counsel for Plaintiff**

Warren K. Kaplan  
Washington Lawyers Committee for  
Civil Rights  
11 Dupont Circle NW; Suite 400  
Washington, DC 20036  
**Counsel for Plaintiff**

By: Teresa Burke Wright / TB  
Teresa Burke Wright



**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

**Southern Division**

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JEFF SCHMIDT,	)	
	)	
<b>Plaintiff,</b>	)	
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<b>v.</b>	)	<b>Civil Action No.: 8:04-cv-3774 (AW)</b>
	)	
	)	
AMERICAN INSTITUTE OF PHYSICS,	)	
	)	
<b>Defendant.</b>	)	
<hr/>	)	

**DEFENDANT'S FIRST SET OF WRITTEN INTERROGATORIES**

Defendant, by and through their undersigned counsel, Jackson Lewis, LLP, hereby request, pursuant to Rule 33 of the Federal Rules of Civil Procedure and this Court's rules governing pre-trial discovery, that Plaintiff answer, separately and under oath, the following interrogatories.

**INSTRUCTIONS**

In answering these Interrogatories, Plaintiff shall furnish all available information available to Defendant, including information in the possession of any present or former attorney, accountants, investigators and all persons acting on Plaintiff's behalf, and not merely such information as may be known of Plaintiff's own knowledge. If Plaintiff cannot answer any interrogatory, in full, after exercising due diligence to secure the information requested, Plaintiff shall so state and answer to the extent possible, specifying the nature of Plaintiff's inability to answer the remainder and providing information or knowledge that Plaintiff possesses concerning the unanswered portions. Questions regarding interpretation of these Interrogatories should be resolved in favor of the broadest possible construction so that all possibly relevant

information is disclosed.

The Interrogatories which follow are continuing. Plaintiff is requested to provide, by way of supplementary answers, such additional information or documents as Plaintiff or any person(s) acting in Plaintiff's behalf may thereafter obtain which augment, clarify, or otherwise modify the answers now given to these Interrogatories. Such supplementary responses are to be served upon Defendant within twenty (20) days after receipt of such information or documents.

All interrogatories should be answered for the period from 1981 extending through the date of trial, unless otherwise indicated or otherwise required by the context.

### **DEFINITIONS**

As used herein, the following terms shall have the meanings indicated below:

"Person" means any natural person, corporation, partnership, sole proprietorship, union, association, federation, club or any other kind of entity. "Document" means any printed, typewritten, handwritten, electronically recorded or otherwise recorded matter of whatever character including, but without limitation, files, correspondence, contracts, agreements, letters, purchase orders, memoranda, telegrams, notes, forms, catalogues, brochures, diaries, reports, calendars, inter-office communications, computer files, e-mail, statements, jottings, announcements, transcripts, affidavits, negotiable instruments, photographs, video and audio tape recordings, motion pictures and any carbon copies, photocopies or reproductions of any such material if Plaintiff does not have custody or control of the original.

"Identify" means, with respect to a natural person: (1) name; (2) sex; (3) last known home address and telephone number; (4) job title; (5) business address and telephone

number; (6) the name and address of his or her employer; and, (7) the relationship, if any, to Plaintiff.

“Identify” means, with respect to a corporation, association, club or other entity: (1) the legal name under which such entity is incorporated or registered; (2) the state in which such entity is incorporated or registered; (3) the full business address and telephone number of such entity; and, (4) the officers of such entity.

“Identify” means, with respect to a document: (1) the author thereof and the person or persons to whom the document was originally directed; (2) the source from which Plaintiff obtained the document; (3) the date of preparation or transmittal of the document; (4) the location of the document; and, (5) the subject matter of the document.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify each and every person you believe has knowledge of any facts relating to your claims in this action. Please state, as to each and every individual identified in response to this interrogatory:

- (a) the name, current or last known business and home telephone numbers, address and, if applicable, title during employment with Defendant;
- (b) the substance of all information or knowledge about the pertinent facts believed to be known; and,
- (c) whether any statement or account, either orally or in writing, of his or her knowledge of the pertinent facts was made or given and, if a written

statement was made or and custodian of such statement.

**INTERROGATORY NO. 2:** State with particularity the nature, basis, amount, and manner of computation of each element of monetary relief you are seeking upon each claim asserted in the Complaint, and provide a detailed description of the nature of and basis for any equitable or other relief you are seeking. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

**INTERROGATORY NO. 3:** Identify each and every employer by whom Plaintiff was employed during the years 1998 through the present, and list:

- (a) the current or last known address and telephone number of each employer;
- (b) the date(s) of each such employment or consulting engagement;
- (c) the job title(s) held by Plaintiff and duties performed during each such employment or consulting engagement;
- (d) your rate(s) of pay and the nature of all employee benefits which you received or were eligible to receive during each such employment (e.g., vacation, personal or sick days, life insurance, health insurance, retirement plan, profit-sharing plan, etc.);
- (e) the reasons for cessation of each such employment or engagement, if applicable (including but not limited to a statement as to whether the cessation of such employment or engagement was voluntary or involuntary); and
- (f) the date you were offered the position.

**INTERROGATORY NO. 4:** State whether Plaintiff applied for unemployment compensation, disability benefits, workers' compensation or other public assistance benefits (including, but not limited to, welfare, medicaid, any food stamp program, etc.) since cessation of his employment with Defendant and, if benefits were received, state the period for which he received those benefits, the amount of such benefits, and the date(s) of any hearings held on his claim for benefits.

**INTERROGATORY NO. 5:** Identify the existence, custodian of and state the location and general description of all written or otherwise recorded statements provided by or obtained from any person concerning the allegations that Plaintiff suffered unlawful retaliation.

**INTERROGATORY NO. 6:** Identify each and every employer or potential employer that was contacted by Plaintiff and any other efforts made to obtain employment since cessation of his employment with Defendant. For each such employer or potential employer, state the date(s) of each such contact; whether he was offered employment, and, if so, the nature and/or title of the job offered; whether Plaintiff accepted or rejected that offer of employment, and, if so, the date of and reason for each rejection.

**INTERROGATORY NO. 7:** Identify all documents relating to, and state the basis of, any grievances or complaints that Plaintiff made regarding discrimination or any other wrongful conduct by any employee, supervisor or other representative of Defendant during the time that he was employed by Defendant and state, for each grievance or complaint, the nature and basis of each grievance or complaint; the name of the person to whom each grievance or

complaint was made; the action(s) taken by such persons in response to said grievance or complaint; and, the date when each grievance or complaint was made.

**INTERROGATORY NO. 8:** Has Plaintiff ever suffered any illness or personal injury or been involved in any accident of any kind, nature, or description whatsoever which caused pain and suffering or which prevented Plaintiff from working since cessation of his employment with Defendant? If so, please state:

- (a) The date of each such illness and the date and place where each such injury or accident occurred;
- (b) The names and present addresses of any other person or persons involved; and,
- (c) The names and addresses of any and all doctors who attended, examined or rendered treatment or the hospitals, medical institutions, or clinics to which you were confined or where you received medical attention for each such personal illness, injury or accident.

**INTERROGATORY NO. 9:** Identify each employee, supervisor or other representative of Defendant who Plaintiff contends committed or participated in acts of retaliation against Plaintiff, specifying the name of the individual and the nature and date of each retaliatory act.

**INTERROGATORY NO. 10:** Identify each person whom Plaintiff intends to call as an expert witness at trial, and as to each such person, state the subject matter on which the expert is expected to testify and provide a description of the substance of the anticipated testimony.

**INTERROGATORY NO. 11:** State whether Plaintiff was a party to a contract of any kind with Defendant and identify (i) the parties to the alleged contract; (ii) whether it was written or oral; (iii) the date on which it was formed; (iv) the individuals who negotiated or otherwise participated in the formation of the contract; (v) all material terms of the contract (including without limitation its duration, the consideration on behalf of each party thereto and the respective obligations of the parties); (vi) any act constituting a breach of the contract (including without limitation the individual who committed the act and the date of each such act); and, (vii) the nature and amount of any damages attributable to such acts. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

**INTERROGATORY NO. 12:** Please identify each and every document which Plaintiff contends supports the allegations of wrongdoing by Defendant or which relates to efforts made by Plaintiff to obtain relief from those acts while he was employed by Defendant and since that time. For each document so identified, please identify the author, custodian, location, subject and general description thereof.

**INTERROGATORY NO. 13:** With regard to allegations in paragraphs 59 and 66 of Plaintiff's Complaint, identify: 1) the specific language supporting Defendant's alleged promise "that job security would be based on work performance"; 2) any documents through which these policies or promises were expressed in writing; and, 3) if the policy was expressed orally, who articulated the policy, when the policy was articulated, whether there were any witnesses to the articulation of the policy, and what was Plaintiff's response, if any. Identify each and every document used to assemble or compile the information requested in this Interrogatory.

**INTERROGATORY NO. 14:** Identify each and every employer who offered Plaintiff a position of employment subsequent to his employment with Defendant, and state:

- (a) the current or last known address and telephone number of each employer;
- (b) the date(s) of each such employment;
- (c) the terms of the offer including, your rate(s) of pay and the nature of all employee benefits which you were eligible to receive (e.g., vacation, personal or sick days, life insurance, health insurance, retirement plan, profit-sharing plan, etc.); and
- (d) whether or not you accepted the position(s) and the reason(s) therefor.

**INTERROGATORY NO. 15:** Do you seek damages under any claim for emotional distress, mental anguish, pain and suffering or other non-economic losses? If so, state the precise nature, amount and manner of calculation of any such damages.



**INTERROGATORY NO. 16:** If the answer to the preceding interrogatory is affirmative, identify by name, current address and telephone number, each and every hospital, expert, doctor or health care professional who has treated, examined or consulted with Plaintiff within the last ten (10) years (for any mental health professional — e.g., psychiatrist, psychologist, social worker — identify for Plaintiff's entire lifetime) and specifically identify:

- (a) The dates of any consultation, examination or treatment;
- (b) The purpose of each such consultation, examination or treatment;
- (c) Whether any written report or memorandum was prepared by such individual relative to the consultation, examination or treatment; and,
- (d) The physical location of the medical records of the treating physician or health care professional.

**INTERROGATORY NO. 17:** If the answer to Interrogatory No. 15 is affirmative, state whether Plaintiff ever suffered any illness or personal injury or has been involved in any accident of any kind, nature, or description whatsoever which caused pain and suffering or which prevented Plaintiff from working since cessation of his employment with Defendant. If so, please state:

- (a) The date and places where each such injury or accident occurred;
- (b) The names and present address of any other person or persons involved; and,
- (c) The names and addresses of any and all doctors who attended, examined or rendered treatment or the hospitals, medical institutions, or clinics to which Plaintiff was confined or where Plaintiff received medical attention

for each such personal injury or accident.

**INTERROGATORY NO. 18:** Please identify specifically how Charles Harris “continuously and harshly” criticized Plaintiff after the October 17, 1997 meeting between the Physics Today Advisory Board and Plaintiff. Identify: (1) the dates the criticism took place; (2) the substance of each criticism; (3) the location where the criticism took place; and (4) each and every person who Plaintiff contends has knowledge of the criticism.

**INTERROGATORY NO. 19:** Set forth whether you have obtained a written or otherwise recorded statement from any person concerning the allegations set forth in the Complaint. If so, state:

- (a) The name and address of the person who gave the statement, and the date the statement was obtained;
- (b) If written, whether signed by this person;
- (c) If oral, the name and address of the person who obtained the statement and the date the statement was obtained;
- (d) Whether the statement was recorded on audiotape or otherwise; and
- (e) If oral, set forth completely the substance of the statement.


**INTERROGATORY NO. 20:** Please identify the factual basis (with specificity) for your assertion in paragraph 79 of the Complaint that Defendant operated as a “state actor”.

**INTERROGATORY NO. 21:** Identify all documents referred to in answering these interrogatories.

Date: March 15, 2005

Respectfully submitted,

**JACKSON LEWIS LLP**

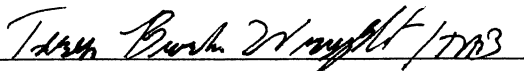
By:   
Wendy J. Mellk  
(*pro hac vice* pending)  
Teresa Burke Wright  
(MD Federal Bar No. 08602)  
8614 Westwood Center Drive  
Suite 950  
Vienna, Virginia 22182  
Telephone: 703-821-2189  
Facsimile: 703-821-2267

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15th day of March, 2005, a copy of the foregoing *Defendant's First Set of Written Interrogatories* was sent via overnight delivery to:

Patricia Gail Butler  
Chad Ryan Murchison  
Howrey Simon Arnold and  
White LLP  
1299 Pennsylvania Ave NW  
Washington, DC 20004  
**Counsel for Plaintiff**

Warren K. Kaplan  
Washington Lawyers Committee for  
Civil Rights  
11 Dupont Circle NW; Suite 400  
Washington, DC 20036  
**Counsel for Plaintiff**

By:   
Teresa Burke Wright

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

**Southern Division**

<b>JEFF SCHMIDT,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.: 8:04-cv-3774 (AW)</b>
	)	
<b>AMERICAN INSTITUTE OF PHYSICS,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**NOTICE OF PLAINTIFF'S DEPOSITION**

PLEASE TAKE NOTICE that, pursuant to Fed. R. Civ. P. 30, Defendant, by its undersigned attorneys, will conduct the deposition upon oral examination under oath of Plaintiff, before an officer authorized by law to administer oaths, at the offices of Jackson Lewis LLP, 8614 Westwood Center Drive, Suite 950, Vienna, Virginia 22182 on the 27th day of April, 2005, at 9:30 a.m. The deposition will continue thereafter from day-to-day until completed and

will be recorded by stenographic means. You are invited to attend and cross-examine.

Dated: March 15, 2005

Respectfully submitted,

**JACKSON LEWIS LLP**

By: Teresa Burke Wright  
Wendy J. Mellk  
(*pro hac vice* pending)  
Teresa Burke Wright  
(MD Federal Bar No. 08602)  
8614 Westwood Center Drive  
Suite 950  
Vienna, Virginia 22182  
Telephone: 703-821-2189  
Facsimile: 703-821-2267

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15th day of March, 2005, a copy of the foregoing  
*Notice of Deposition* was sent via overnight delivery to:

Patricia Gail Butler  
Chad Ryan Murchison  
Howrey Simon Arnold and  
White LLP  
1299 Pennsylvania Ave NW  
Washington, DC 20004  
**Counsel for Plaintiff**

Warren K. Kaplan  
Washington Lawyers Committee for  
Civil Rights  
11 Dupont Circle NW; Suite 400  
Washington, DC 20036  
**Counsel for Plaintiff**

By: Teresa Burke Wright / TMB  
Teresa Burke Wright